

REMARKS

In accordance with the foregoing, claims 2-30 are added. No new matter is added. Claims 12-30 are pending and under consideration.

CLAIM REJECTIONS UNDER 35 U.S.C. §102

Claims 12, 13, 24-27 are rejected under 35 USC §102(e) as allegedly being anticipated by U.S. Patent Application No. 2005/0239460 A1 to Kroth et al. (hereinafter "Kroth").

Independent claim 12 patentably distinguishes over Kroth at least by reciting:

1. making measurements of transmission quality of the common channel available in the base station; and
2. transmitting from the base station a first message to a controlling radio network controller allocated to the base station when the measurements show that the transmission quality does not meet a defined criterion, the first message containing information about the transmission quality and about at least one particular subscriber station for which the measurements indicated bad quality of transmission.

1. The Office Action indicates paragraph [0025], claims 14, 16 and 17 of Kroth as relevant relative to the above-identified recitations in claim 12.

Paragraph [0025] describes the Controlling Radio Network Controller (CNRC) having control over the physical resources (transmission capacities) of subordinate nodes. The description makes no reference to "making measurements of transmission quality ..." as recited in claim 12.

Claim 14 of Kroth is directed to a method for controlling transmission of data in a radio communication system having a hierarchical network architecture. The method of claim 14 in Kroth performs "administering physical resources for a data transmission to user equipment by a first device" (e.g. the CRNC in FIG. 1 of Kroth); and "transmitting load information about a current load situation of the physical resources by the first device to a second device at a second hierarchy" (e.g. the SNRC1 or SNRC2 in FIG. 1 of Kroth). None of the operations recited in claim 14 corresponds to "making measurements of transmission quality of the common channel" as recited in claim 12 of the current application.

Further, claim 16 in Kroth specifies that "the load information includes load values averaged over time for at least one of defined operating parameters and signaling types of the radio communication system for radio data connections between user equipment and a third

device of a lowest hierarchy.” Claim 17 adds to the method of claim 14 in Kroth the operations of “cell load reporting; and checking on an assignment of user equipment to specific devices of the lowest hierarchy based on said cell load reporting.” None of claims 16 and 17 explicitly or implicitly discloses “making measurements of transmission quality of the common channel available in the base station” as recited in claim 12. The indicated portions of Kroth refer to resources and loads but not to quality.

2. According to the method of claim 12, “transmitting ...” occurs **“when the measurements show that the transmission quality does not meet a defined criterion.”** Unlike, in the method of claim 12, the “transmitting load information” of claim 14 in Kroth does not occur in certain specified conditions (i.e. no “when” is disclosed or inherent). Further, in Kroth whether the condition of the transmission in claim 12 is satisfied cannot be evaluated since no measurement of transmission quality is performed. Since in Kroth no measurement of transmission quality are performed, the mere “cell load reporting” of claim 17 of Kroth does not anticipate “information about [...] at least one particular subscriber station for which the measurements indicated bad quality of transmission.”

In view of the above, claim 12 and claims 13-27 depending directly or indirectly from claim 12 patentably distinguish over Kroth because Kroth fails to anticipate all the features recited in the claims.

CLAIM REJECTIONS UNDER 35 U.S.C. §102

Claims 14-23 are rejected under 35 USC §103(a) as allegedly being unpatentable over Kroth, in view of WO 02/01897 to Ghosh (hereinafter “Ghosh”). Ghosh does not correct or compensate for the above-identified failure of Kroth to anticipate all the features of independent claim 1. Therefore, claims 14-23 are patentable at least by inheriting patentable features from independent claim 12.

NEW CLAIMS

New claim 28 is directed to a method for transmitting data in a radio communications system in which a plurality of subscriber stations use a shared channel for exchanging data with a base station. The claim is fully supported by the originally filed specification, for example, original claim 12. New claim 28 patentably distinguishes over the prior art at least by reciting:

- **measuring a transmission quality of the shared channel for each of the subscriber stations; and**

- transmitting a first message from the base station to a controlling radio network controller controlling the base station **when transmission quality of at least one of the subscriber stations is inadequate as the measured transmission quality for the at least one of the subscriber stations does not satisfy a respective predetermined criterion**, the first message containing **information about the measured transmission quality of the at least one subscriber station with inadequate transmission quality**. Emphasis ours for features not anticipated by Kroth in view of the above discussion.

New claims 29 and 30 are directed to a communication radio system having serving radio network controllers, a controlling radio network controller, base stations and a plurality of subscriber stations. Claims 29 and 30 are supported by the originally filed specification, for example, FIG. 1 and original claim 12. Claim 29 patentably distinguishes over the cited prior art at least by reciting:

- base stations in communication [...] wherein a **base station sends a first message to the controlling radio network controller when a measured transmission quality of at least one of the plurality of subscriber stations exchanging data with the base station does not meet a defined criterion, the first message containing information about the transmission quality and about the at least one subscriber station**. Emphasis ours.

New claim 30 patentably distinguishes over the prior art by inheriting patentable features from claim 29 and by further reciting:

- a controlling radio network controller [...] wherein the controlling radio network controller sends a **second message to the one of the serving radio controllers that is able to configure the at least one subscriber stations**.

CONCLUSION

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

Serial No. 10/552,149

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: Sept. 25, 2008

By: L. Todor
Luminita A. Todor
Registration No. 57,639

1201 New York Avenue, N.W., 7th Floor
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501